

Remarks

The Office Action mailed March 9, 2006 and made final, and the Advisory Action mailed August 1, 2006 have been carefully reviewed and the foregoing amendments have been made in consequence thereof.

Claims 2-13 and 39-64 are pending in this application. Claims 2-13 and 39-64 stand rejected. No new matter has been added.

In accordance with 37 C.F.R. 1.136(a), a two month extension of time is submitted herewith to extend the due date of the response to the Office Action dated March 9, 2006, and made final, and the Advisory Action dated August 1, 2006, for the above-identified patent application from June 9, 2006, through and including August 9, 2006. An extension of one-month has already been secured. The fee paid therefore of \$120.00 is deducted from the total fee due for the total months of extension now requested. Authorization to charge a deposit account in the amount of \$330.00 to cover this extension of time request also is submitted herewith.

The Advisory Action appears to assert that the claim amendment of "prompting the first user to link at least one of a level and a weight to a data field..." raises the issue of new matter. Applicants traverse this assertion. Applicants respectfully submit that this recitation is fully supported by the originally filed specification, and therefore, is not new matter. For example, paragraphs [00152] and [00153] along with Figure 9 describe prompting a user to link at least one of a level and a weight to a data field. Accordingly, Applicants respectfully submit that this particular recitation is not new matter because it is fully supported by the originally filed specification.

In addition, the Advisory Action objects to the recitation "analyzed business metrics" on Section 112, second paragraph grounds. Applicants traverse this objection. Applicants, however, have amended this recitation in each independent claim. Accordingly, Applicants submit that the present claims satisfy Section 112, second paragraph.

The objection to Claims 39, 40, 52, and 64 under 35 U.S.C. § 132(a) as containing new matter is respectfully traversed.

The Office Action indicates that the fifth and ninth steps recited in Claims 39, 40, 52, and 64 are not supported by the original disclosure. The fifth step follows from the fourth step of linking the customized template to the at least one hierarchy of entities for restricting access to the customized template. Paragraph [00111] of the originally filed specification describes that when “a user enters data into a template through the metrics entry screen, this trigger gets fired and performs the rollups on the entered data and inserts the data for the parent records, if any, into the second table.” The term “parent” in this context implies a hierarchical relationship that is discussed in paragraphs [00113] to [00117]. Accordingly, by virtue of linking the template to the hierarchy of entities, the data fields of the template are also linked to the hierarchy of entities. The first part of the ninth step finds support in the originally filed specification in at least paragraphs [00083], [00114], [00115], [00199], [00200] and in Figures 41 and 42. For example, paragraph [00083] discloses in line 4, “generating records or reports”. Paragraphs [00113] to [00117] disclose hierarchical entities. Paragraphs [00199] and [00200] and Figures 41 and 42 disclose a report showing business metrics for each business linked to the customized template including each business unit having entered data and the hierarchical relationship between each business unit. Figure 41 discloses a Metrics Package and Figure 42 discloses the hierarchical relationship between each business unit. The second part of step nine finds support in at least paragraphs [00177], [00230], [00231], and [00326]. For example, paragraph [00177] defines “rollup” as a technique for data entry which is an instruction to server 10 to list the output in an organization structure/format envisioned by a user. Paragraphs [00230] and [00231] disclose *collecting data from globally dispersed locations into a single database and automatically rolling-up numbers based on previously setup business entity hierarchy*. Paragraph [00326] discusses listing the entities in hierarchical manner.

For at least the reasons set forth above and having provided support for the features noted in the Office Action, Applicants respectfully request that the objection to Claims 39, 40, 52, and 64 under 35 U.S.C. § 132(a) be withdrawn.

The Office Action rejects Claim 64 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter and suggests inserting the following language into Claim 64: “that the computer programs comprised of instructions, which when read and executed by a computer, cause the computer to perform the steps (a)-(i)”. Applicants respectfully traverse this rejection.

However, in an effort to address this rejection, Applicants have incorporated the suggested language into Claim 64. For at least this reason, Applicants respectfully request that the rejection to Claim 64 under 35 U.S.C. § 101 be withdrawn.

The rejection of Claims 39, 2-13, 40-51, 52-63, and 64 under 35 U.S.C. § 112, second paragraph, is respectfully traversed. Applicants respectfully submit that Claims 39, 2-13, 40-51, 52-63, and 64 satisfy Section 112, second paragraph. More specifically, Applicants respectfully submit that Claims 39, 2-13, 40-51, 52-63, and 64 are definite and particularly point out and distinctly claim the subject matter of the invention. The Office Action asserts that in Claim 39, line 5, it's not clear the relationship of the phrase "a customized template for receiving business metrics". Applicants respectfully traverse this assertion. Applicants, however, submit that Claims 2, 4, 6, 7, 9, 10-12, 39-41, 43-50, 52, 53, 55-62, and 64 have been amended to address this rejection. The Office Action asserts that in Claim 39, line 9, the phrase "the 1st user to designate a number of data fields" is not clear. Applicants respectfully traverse this rejection. Applicants, however, submit that claims 39, 40, 52, and 64 have been amended to address this rejection.

The Office Action also asserts that it's not clear how "linking the created template to the at least one hierarchy of entities for restricting access to the created template to only selected business units included within the business entity" is carried out and what it really means. Applicants respectfully traverse this rejection. Paragraph [00111] discloses how this is carried out, namely that by linking the template to the at least one hierarchy of entities doing only selected business units within the business entity have access to the template. In other words, not all business entities in the business hierarchy have access to the template. The Office Action also expresses confusion regarding what happened to the "combined data for a plurality of selected business units". "Combining data for a plurality of selected business units" is recited in Claim 39, line 22, and is used when "generating, using a server, a plurality of reports" as recited in Claim 39, line 30. The Office Action asserts that the phrase "selected data fields" lacks antecedent basis. Applicants respectfully traverse this rejection. Applicants, however, submit that Claims 39, 40, 52, and 64 have been amended to address this rejection. The Office Action asserts that it's not clear the relationship of the last two steps (h) and (i). Applicants respectfully traverse this rejection. Step (h) is at least analyzing data that has been entered into the database

by way of templates. Step (i) indicates that at least a plurality of reports may be generated using this analyzed data and gives as at least one example a first report including each business unit having entered data. Because the data was analyzed, it was at least determined that some business units entered data and others did not – thus establishing the relationship between steps (h) and (i). The Office Action asserts that Claim 39, lines 27-29 are vague, noting that the phrase “a 2nd report combining business metrics...entities” is vague since it’s not clear what the 2nd report shows. Applicants respectfully traverse this rejection. Applicants, however, submit that Claims 39, 40, 52, and 64 have been amended to address this rejection. The Office Action also asserts that because independent Claims 40, 52, and 64 have similar steps (a)-(i), they are similarly rejected. Applicants respectfully traverse these rejections. Applicants, however, submit that that above arguments and amendments also apply to Claims 40, 52, and 64.

For at least the reasons set forth above, Applicants respectfully request that the rejections of Claims 39, 2-13, 40-51, 52-63, and 64 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The rejection of Claims 39, 2-13, 40-51, 52-63, and 64 under 35 U.S.C. § 103(a) as being unpatentable over (1) Applicant Admitted Prior Art (or AAPA) in view of (2) Bernado et al. (U.S. Patent No. 6,684,369) (“Bernado”) and (3) Fleming et al. (U.S. Patent Publication 2002/0059264) (“Fleming”) is respectfully traversed. Because the Examiner rejected all of the independent claims, namely Claims 39, 40, 52, and 64, together, Applicants have structured the following arguments using the same format.

Applicants respectfully submit that no combination of AAPA, Bernado and Fleming describes or suggests the claimed invention. As discussed below, at least one of the differences between the cited references and the present invention is that none of AAPA, Bernado, or Fleming, alone or in combination, describe or suggest a method (Claim 39), a network based system (Claim 40), an apparatus (Claim 52), or a computer program (Claim 64), for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, the method comprising the steps of: storing in the database a plurality of web pages including a create template web page; prompting a first user to create a customized template for receiving business metrics by

displaying at the at least one client system the create template web page, the create template web page prompts the first user to enter data including at least one of a template name, a frequency, a first due date, a contact name, and a template description, the create template web page prompts the first user to define data fields to be displayed on the customized template and a type of business metrics to be entered into the customized template, the customized template is stored within the database for retrieval by a second user for inputting business metrics; and, *prompting the first user to link at least one of a level and a weight to a data field displayed on the customized template.*

Moreover, Applicants submit that none of AAPA, Bernado, or Fleming, alone or in combination, describe or suggest a method for managing business metrics for a business entity including creating at least one hierarchy of entities within the business entity including storing within the database a relationship between each of the business units included within the business entity; linking the customized template to the at least one hierarchy of entities for restricting access to the customized template to only selected business units included within the business entity; linking the data fields included within the customized template to the at least one hierarchy of entities for combining data for a plurality of selected business units included within the business entity; displaying the customized template at the at least one client system to prompt the second user to enter business metrics relating a business unit linked to the customized template, the second user enters business metrics into the data fields displayed on the customized template; storing the business metrics in the database; analyzing the business metrics stored in the database using the server system; and, generating, using the server, a plurality of reports including a first report showing business metrics for each business unit linked to the customized template including each business unit having entered data and the hierarchical relationship between each business unit, and a second report containing desired combinations of business metrics entered into linked data fields for each business unit linked to the customized template based on the hierarchy of entities.

AAPA discloses that capturing, analyzing, reporting and assessing business metrics can be highly valued business management tools. Additionally, AAPA discloses, the availability of a readily customizable spreadsheet for each of several business units is a major advantage to that

business unit because this may result in capture of needed valuable business metric data thereby enhancing analysis and reporting and business management capability.

Bernado discloses a tool, system and method for creating Web sites. More specifically, Bernado discloses a library of templates (e.g., text, fields, HTML code and formulas) that correspond to the available features and options. The templates comprise databases which may include fields, forms, views, text, formulas and profiles that enable customization of the features. There are fields for company name, address, contact person, etc. The user may be prompted to select whether to create a new site or edit an existing one. Features of each Web page include formatting options, security links, colors, borders, buttons, workflow commands, graphics, backgrounds, text, and other items. Some features may be required and some may be discretionary. The templates may be stored in a database 40 associated with server 30. A page may also contain various links to other files. For example, the link may include a uniform resource locator that may link to another Web page. A page may include various fields in which text may be entered to customize the resulting Web page without writing HTML or other code. A library of Help documents are associated with the templates. The help documents include fields that link the document with one or more related fields of other templates to associate each help document with one or more features and/or fields.

Fleming discloses a method for presenting data derived from one or more databases. A business model maps the data that can be requested by a user to the data contained in databases 2914. The databases may be spread across multiple enterprises or corporations 2902, 2904, and 2908. Monitors are built using templates, so customers are able to rapidly customize their look and feel to suit their particular requirements. Additionally, since monitors 3102 are easily customized, business data can be properly presented, in real time, to all levels of client users, allowing them to take quick action when problems arise. The monitors are created around trend markers 3104, which provide a graphical display of a trend of business data over time. By managing these trend markers 3104, client users can quickly avert problems before they affect the financial performance of the company. By selecting trend symbol 3104, the end user 206 will be provided detailed information related to the selected trend symbol. This detailed information may also have trend symbols which allow a user to visually narrow the reasons for trend changes of the originally selected trend symbol. Trend markers 3104 may be based on a

mathematical function which is associated with, but not limited to, a plurality of categories or indicators. In various embodiments the trend markers 3104 indicate whether information displayed has exceeded a threshold, or changed over a period of time. Upon a user query, the value of a derived indicator or category is calculated by a model manager using the associated formula. Within a library 3801, collections 3803 are made up of one or more reports 3805. Each report 3805 is associated with a set of administrator defined categories and indicators, which a user may select to form a page. A report 3805 may contain a plurality of pages 3807. When a report 3805 is selected by a user, the report's 3805 underlying pages 3807 are displayed.

None of AAPA, Bernado, or Fleming, considered alone or in combination describe or suggest a method, network, apparatus, or computer program for managing business metrics as recited in Claims 39, 40, 52, and 64, respectively. Specifically, neither AAPA, Bernado, or Fleming, considered alone or in combination, describe or suggest a method for managing business metrics for a business entity that includes *prompting the first user to link at least one of a level and a weight to a data field displayed on the customized template*. Rather, AAPA discloses capturing, analyzing, reporting and assessing business metrics; Bernado discloses inputting data to construct a web page; and, Fleming discloses a method for presenting business data using a computer system wherein there may exist a parameter which is derivable from the business data and not necessarily pre-existing in the business data. Accordingly, none of AAPA, Bernado, or Fleming, considered alone or in combination, describe or suggest a method for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, said method comprising the steps of: storing in the database a plurality of web pages including a create template web page; prompting a first user to create a customized template for receiving business metrics by displaying at the at least one client system the create template web page, the create template web page prompts the first user to enter data including at least one of a template name, a frequency, a first due date, a contact name, and a template description, the create template web page prompts the first user to define data fields to be displayed on the customized template and a type of business metrics to be entered into the customized template, the customized template is stored within the database for retrieval by a second user for inputting business metrics; and,

prompting the first user to link at least one of a level and a weight to a data field displayed on the customized template.

Moreover, Applicants submit that none of AAPA, Bernado, or Fleming, alone or in combination, describe or suggest a method, network, apparatus, or computer program for managing business metrics for a business entity including creating at least one hierarchy of entities within the business entity including storing within the database a relationship between each of the business units included within the business entity; linking the customized template to the at least one hierarchy of entities for restricting access to the customized template to only selected business units included within the business entity; linking the data fields included within the customized template to the at least one hierarchy of entities for combining data for a plurality of selected business units included within the business entity; displaying the customized template at the at least one client system to prompt the second user to enter business metrics relating a business unit linked to the customized template, the second user enters business metrics into the data fields displayed on the customized template; storing the business metrics in the database; analyzing the business metrics stored in the database using the server system; and, generating, using the server, a plurality of reports including a first report showing business metrics for each business unit linked to the customized template including each business unit having entered data and the hierarchical relationship between each business unit, and a second report containing desired combinations of business metrics entered into linked data fields for each business unit linked to the customized template based on the hierarchy of entities. For at least the reasons set forth above, Claims 39, 40, 52, and 64 are submitted to be patentable over AAPA, Bernado, and Fleming.

Furthermore, dependent Claims 8, 48, and 60 recite, and Claim 64 further recites, that *the level indicates higher or lower desirable features or ratings*. None of AAPA, Bernado, or Fleming, considered alone or in combination, describe or suggest a method, network, apparatus, or computer program for managing business metrics as recited in Claims 8, 48, 60, and 64. Specifically, neither AAPA, Bernado, or Fleming, considered alone or in combination, describe or suggest a method, network, apparatus, or computer program for managing business metrics for a business entity wherein *the level indicates higher or lower desirable features or ratings*. Rather, AAPA discloses capturing, analyzing, reporting and assessing business metrics; Bernado

discloses inputting data to construct a web page; and, Fleming discloses a method for presenting business data using a computer system wherein there may exist a parameter which is derivable from the business data and not necessarily pre-existing in the business data. Accordingly, none of AAPA, Bernado, or Fleming, considered alone or in combination, describe or suggest a method, network, apparatus, or computer program for managing business metrics for a business entity wherein *the level indicates higher or lower desirable features or ratings*. For the reasons set forth above, at least Claims 8, 48, 60, and 64 are submitted to be patentable over AAPA, Bernado, and Fleming.

When the recitations of Claims 2-13, 41-51, and 53-63 are considered in combination with the recitations of Claims 39, 40 and 52, respectively, Applicants submit that dependent Claims 2-13, 40-51, and 53-63 likewise are patentable over AAPA, Bernado, and Fleming.

For at least the reasons set forth above, it is respectfully requested that the rejection of Claims 39, 2-13, 40-51, 52-63 and 64 under 35 U.S.C. § 103(a) as being unpatentable over the combination of AAPA, Bernado, and Fleming be withdrawn.

In addition to the arguments set forth above, Applicants further submit that the Section 103 rejection of Claims 39, 2-13, 40-51, 52-63 and 64 is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify AAPA using the teachings of Bernado and Fleming. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

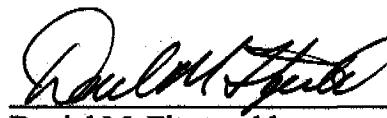
As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte

Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Int'r. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

None of AAPA, Bernado or Fleming, considered alone or in combination, describe or suggest the claimed combination. Rather, the present Section 103 rejection is based on a combination of teachings selected from multiple references in an attempt to arrive at the claimed invention. Because there is no teaching, suggestion, or motivation for the combination of Lewis and Park, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 39, 2-13, 40-51, 52-63 and 64 be withdrawn.

In view of the foregoing amendments and remarks, all the Claims now active in the application are believed to be in condition for allowance. Favorable action is respectfully solicited.

Respectfully Submitted,



Daniel M. Fitzgerald
Reg. No. 38,880
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070